

# **SANDLER REIFF**

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September 29, 2017

Mr. Doug Kodish  
Audit Division  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Mr. Kodish:

We are in receipt of the Draft Final Audit Report ("DFAR") regarding the Hawaii Democratic Party ("HDP") for the 2011-2012 election cycle. Although we are not requesting an oral hearing in connection with the DFAR, we provide the following comments in connection with proposed Finding 6.

The DFAR concludes, and the HDP does not dispute, that, due to an administrative oversight, the HDP did have sufficient written authority provided to it by the Democratic Senatorial Campaign Committee ("DSCC") to engage in coordinated expenditures under 52 U.S.C. § 30116(d). The DSCC subsequently acknowledged, in writing, that it did not use a significant portion of the authority that it had itself received from the Democratic National Committee in connection with the Hawaii Senate election in 2012. A copy of this written correspondence had been previously provided to the Audit Division.

It should be noted that the HDP is not requesting that the Commission or the Audit Division determine that the HDP made coordinated expenditures in full compliance. Rather, the HDP objects to the Audit Division's recommendation that the HDP seek a reimbursement from "Hirono for Congress" [it appears that the DFAR erroneously identifies the beneficiary of the expenditures as "Hirono for Congress" and not "Friends of Mazie Hirono" the Democratic nominee for U.S. Senate in 2012] for \$27,125 since the combined spending by the HDP and DSCC did not exceed the combined coordinated expenditure authority for the 2012 general election.

Specifically, the HDP objects to the Commission's inconsistent treatment of the HDP and similarly situated state party committees in prior audits. In 2012, the Commission was presented with an almost identical scenario in connection with the 2008 Election Cycle Audit of the Democratic Executive Committee of Florida ("DECF") (A copy of the Commission's discussion of this matter is attached to this response). Although the Commission approved the Audit Staff's recommendation that the DECF had exceeded the coordinated expenditure, it acknowledged that

the combined spending limit was not exceeded. In addition, there is no discussion or requirement in the Final Audit Report regarding any required repayment by the federal candidate that benefited from the coordinated spending to the DECF.

The HDP believes that the Commission must treat these two matters in a consistent manner or provide an explanation as to why it is departing from past precedent by requiring a refund when there was no substantive benefit provided to the Hirono campaign due to the fact that the combined coordinated expenditure limit was not exceeded.

Although we have no objections or additional comments to the remaining conclusions of the DFAR, the HDP urges the Commission amend the Final Report per our discussion above to treat the HDP consistently with the Commission's prior approach to the issues presented in proposed Finding 6.

If you require any further information, or have any other questions, please call me at (202) 479-1111.

Sincerely,

A handwritten signature in black ink, appearing to be 'Neil Reiff', written over a horizontal line.

Neil Reiff

Counsel to the Hawaii Democratic Party